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# In the Supreme Court
OF THE
# United States

No. 4721

SOUTHERN PACIFIC COMPANY, a corporation,
*Petitioner,*

vs.

HILDUR HAGLUND, as Administratrix of the Estate of ERNEST HAGLUND, deceased, and ROLPH NAVIGATION AND COAL COMPANY, a corporation,
*Respondents.*

## Petition and Brief for Writ of Certiorari to the United States Circuit Court of Appeals for the Ninth Circuit.

(Identical petitions and briefs are filed in Southern Pacific Co. v. Moore Shipbuilding Co., et al., and Southern Pacific Co. v. Haglund etc. Both Petitions are based on errors of law in the single opinion for both cases and on record in Moore case.)

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The whistle acceptance of a tendered passing signal is a positive assertion that no danger exists which is known to the accepting vessel and concealed from the vessel signalling for the maneuver. If there is such a danger, the vessel knowing it owes a positive duty to the asking vessel to blow the danger signal. A vessel knowing of such concealed danger and accepting a passing signal and failing to blow the danger signal is in fault and is responsible for a collision "caused" by the hidden danger. The tendering vessel may rely on the assurances of the accepting vessel and is not at fault for damages arising from proceeding as if the hidden danger were not there.

The contrary rule, laid down by the Ninth Circuit in this case, is opposed to the rule as established in the Sixth, Fourth and Second Circuits and all other cases. It is not the law and is a menace to life and property at sea ..... 6

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